

[Mr. T. K. Kittan]

ണ്ട്. പുസ്തകം വാങ്ങിക്കാൻതന്നെ നിവൃത്തിയില്ലാതിരിക്കുന്നു. ചെറിയചെറിയ പുസ്തകങ്ങളുണ്ടാക്കി ൧൮-ം ൨൦-ം ചക്രത്തിനു വിറ്റുവരുന്നതു വലിയ കഷ്ടമാണ്. അതുപോലെതന്നെ നോട്ടുബുക്കുകളും കുറെ കുറയ്ക്കാമെന്നു നോക്കേണ്ടതാണ് ചെറിയ കുട്ടികൾ അവരോളം പൊക്കത്തിൽതന്നെ നോട്ടുബുക്കുകളുമായി പള്ളിക്കൂടത്തിലേക്കു പോകുന്നതു ഞാൻ പലപ്പോഴും കണ്ടിട്ടുണ്ട്. ഡിപ്പാർട്ടുമെൻറ അദ്ധ്യക്ഷൻ ഈ കാര്യങ്ങളിലെല്ലാം ശ്രദ്ധിക്കണമെന്നുപേക്ഷിക്കുന്നു.

M. M. K. Ananthasiva Aiyar: Sir, I support the demand. In doing so, I wish to make a few observations. It seems that the Department has given instructions to all the schools, whether private or Government institutions, that *Vancheesamangalam* should be sung to the correct tune in all the schools. So far as my knowledge goes, in many of the English High Schools it is not being observed. Especially in some private schools no *Vancheesamangalam* is being sung. In some schools where *Vancheesamangalam* is being sung, it is not sung to the correct tune.

Chairman: Order, order. The House will now rise and meet again at 5-30, for legislative business.

The House rose at 5 P. M.

LEGISLATIVE BUSINESS DEBT RELIEF BILL.

The House re-assembled at 5-30 P. M.

Mr. N. Krishna Aiyar: Sir, I move the following amendment.

In Clause 4, add. another sub-clause as follows:

"any liability of a person which does not exceed the annual income of that person"

Sir, I think this amendment will meet with the acceptance of the honourable members, because, it would on the very face of it seem unreasonable that a person who has got an annual income of, say Rs. 10,000 should get concession in the matter of payment of his small debts. Say, for example, an officer drawing a salary of Rs. 800 or Rs. 900 per mensem and getting an annual income of over Rs. 10,000 which could easily be ascertained; suppose such an officer, for an emergency borrows Rs. 500, to say that he should pay only Rs. 350, seems on the very face of it very unreasonable and unjustifiable. However much sympathetic one could be towards the debtors, one must not stretch the reason to such an absurd extent as to impose such heavy penalty upon a creditor who has helped a fairly big man, sometimes bigger than himself. The situation

here is that the creditor happened be approached for an emergent necessity by such a big person. I do not believe that either in the drafting of the Bill or in any other stages of the Bill, this aspect would have been considered by the honourable members, namely, where the amount of the annual income is astoundingly big, proportionately big to the small liability, he may have his dues also cut down. The fact that a highly paid man who took the loan would ever think of asking for a reduction could not even be dreamt of, the reason being, that his dues may after all be only a month's salary or even less than that. To say that no more than 70 per cent of the debt shall be recoverable in such a case would take things too far beyond the ordinary comprehension of reason and prudence. I would therefore suggest that the House may consider this seriously with all its implications. The existing Clause would be considered to be absolutely unreasonable even by people outside Travancore. With these remarks I move the amendment.

Mr. M. K. Ananthasiva Aiyar: I second it.

Mr. Kottur Kunjukrishna Pillai: Sir, I rise to oppose the amendment. I am sorry I am not convinced of the argument that if I oppose this amendment, I will be considered unreasonable either here or outside Travancore. I am surprised on the other hand that the honourable member is bringing forward this amendment, when substantially we have decided that there should be no limit fixed for the inclusion of debts which will come into the operation of this Bill, considering the fact of the capacity to pay or the income of the individual. That attitude has been taken as one of the fundamental principles of the Bill and that was taken for very good reasons, because it was found that there will be very many practical difficulties in ascertaining the exact income of a person and fixing a limit and then excluding him or including him. Again, there will be occasion for unfairness. The other fundamental principle which has been accepted and which runs through the whole Bill is, that a cut and dry rule should be provided for bringing into operation. So that then if my friend's suggestion is accepted, we can speak of a hundred other things by which limits could be prescribed and as the House is very well aware that it cannot be caught napping. By putting in some amendments by which the whole course of this legislation may be delayed, the relief that has become so urgent for many people would be destroyed. I also wish to point out to the honourable member that, if in case the Debt Relief Bill goes, or the possibility of early legislation goes, very many other provisions which may be considered to be very hard for the creditors might come in. That possibility must be practically considered. I hope, Sir, that the position that has been taken by the

[Mr. Puthupally S. Krishna Pillai]

sponsor of the Bill, and the other House is, that there are no means by which a distinction with regard to debts that can be included within the relief provisions of this Bill can be decided. If that position is accepted, then I think there will be no necessity for many an amendment like this. With these words, I oppose the amendment.

Mr. Puthupally S. Krishna Pillai: Sir, I also oppose the amendment. I have already stated the position that there must be some certainty about the applicability of the relief provisions. It should not be a matter, left to the ingenuity of the creditor or a matter which should be left to the uncertainties of a decision in the civil court. Mr. Krishna Aiyar says that any liability of a person which does not exceed the annual income that person also should be brought under the the exclusion clause. In the case of a Government Officer, to some extent his annual income is ascertainable. But if Mr. Krishna Aiyar has in view the Government officers alone, then he could have stated that no Government Officer shall be allowed the privileges of the Bill, or that no such Officer assessed to income tax shall be protected.

Mr. N. Krishna Aiyar: Is not the honourable member aware that besides those who pay income-tax to Government for which there is a list with them, there are also non-agricultural income which yield above Rs. 2,000 to persons?

Mr. Puthupally S. Krishna Pillai: Yes, but in the case of Government servants the income is, ascertainable without any difficulty. Therefore there cannot be any difficulty at all in regard to Government officers.

Mr. N. Krishna Aiyar: May I ask, does not Section 19 give information about the total amount of a debtor.

Mr. Puthupally S. Krishna Pillai: We are not dealing with Clause 19. All the preliminary provisions are made for the purpose of leading us to Sections 8 and 9 of the Bill. Section 19 comes in at a later stage and the advantages of it are available to a limited class of debtors who are unable to take advantage of the various provisions of the bill.

Mr. N. Krishna Aiyar: Am I to take it from the member that Clause 19 has no relationship at all with the Clauses 8 and 9? Does it refer to the possibility or impossibility of debtors paying the amount in full?

Mr. Puthupally S. Krishna Pillai: Sir, I am referring to Clauses 8 and 9. Is it the member's intention that the privileges conferred by clauses 8 and 9 should be determined on the basis of the principle contained in section 19. If so, let us confine our attention to that aspect. Section 19 has little to do with Clauses 8 and 9.

Mr. N. Krishna Aiyar : Does it not refer to the principle, under which the assets of a debtor are to be calculated and does it not say that 1/4 of it should be left to him leaving the remainder to his creditors for a distribution.

Mr. Puthupally S. Krishna Pillai : There is no necessity as I said to deal with Section 19 now. There is a lot of difference between Section 8 and 9 and the principles contained in Section 19. The latter clause comes in where the debtor himself acknowledges his inability to pay the creditors even according to provisions 8 and 9 when a court is competent to liquidate such assets and pay off 75% of the liabilities to the creditors leaving the 25% to the debtor for his subsistence. Here, we are concerned with the question whether a debtor shall be entitled to pay the first instalment within six months from the commencement of the Act and for that the member wants to ascertain the debtor's annual income and his total debts. Then it has to be examined whether this Act is to apply to him. I ask, sir, how long will such a process take.

President : The question before the House is—

In Clause 4, add another sub clause as follows

“any liability of a person which does not exceed the annual income of the person.”

The amendment was put to vote and lost.

Mr. N. Krishna Aiyar : Sir, I move the following amendment:—

In clause 4, add another sub-clause as follows :

“any liability of a person whose total liability at the commencement of the Act does not exceed his annual income.”

Sir, all the arguments I advanced in respect of the previous amendment apply with re-doubled force in respect of this amendment also, with this distinction, namely, that in the previous amendment the liability contemplated is less than the annual income of a person, but here, the total liability does not exceed his annual income. It may be that a person might have borrowed small amount on several occasions or from several persons.

The amount by itself may be very small. But the total amount may be a very large sum. In cases when the total aggregate does not exceed his annual income, it is fair and just to suggest that it should not be curtailed and the creditor should not lose the small sums which he has advanced to a big man who has comparatively a large income. I therefore advance the same arguments as in the case of the other and commend the amendment for the acceptance of the House.

Mr. Jacob Cheriyan : I second it.

Mr. Puthupalli S. Krishna Pillai: I have already stated what I had to say in respect of this matter. I oppose the amendment.

The amendment was put to vote and lost.

Mr. N. Krishna Aiyar: Sir, I move that in clause 4, add the following as a new sub-clause *viz.* "costs allowed by Courts in Civil cases". In this connection I would refer to similar Acts passed in Madras and Cochin. Section 11 of the Madras Act of 1938 excludes costs allowed by Courts. Section 12 of the Cochin Act recently passed is also more or less the same. As honourable members know, in the case of suits where they are ended in compromise, only half the costs and in the case of others Court fee and only a small amount paid as Vakil fee is allowed. But actually there are other expenses incurred over and above those allowed by the Courts. Ordinarily a man would not go to the Court if he can recover the amount without going to the Court. In 99 cases out of 100 perhaps it may be explained that it is owing to the recalcitrant nature of the debtor or his refusal to pay or when the amount is about to be got barred that a creditor files a suit. Therefore it is just and proper that the amount he spends for costs is recovered from the debtor. Since all amounts due to Government are protected and also considering the fact that this principle has been recognised by legislations passed in other places, I submit that it may be accepted by the House.

Mr. M. K. Ananthasiva Aiyar: I second it.

Mr. Puthupalli S. Krishna Pillai: Sir, I oppose the amendment. The question was very carefully considered by the other House and it was decided that it is unnecessary. The reasons which induced the other House for rejecting the proposal may be briefly stated as follows. Between the costs incurred and the money actually advanced by a man, there need not be logically any difference. A decree might have been obtained for a debt due by a person. Over and above that, for the purpose of enforcing his liability some further amount might have been advanced and that goes towards, swelling the debt of the debtor. We are now dealing with two amounts; one advanced by way of debt which before the date of the suit the debtor deemed to have been unable to pay and another amount advanced evidently for the purpose of recovering it. That is an additional burden cast on him. A debt is any liability which remains due on the date of the passing of the Act. If distinction is to be made between debts, it will lead to hardships and therefore it was thought that no such distinction need be made. It is pointed out that in Madras and Cochin there is such a provision. I have tried to explain that there is much difference between our Bill and these Acts.

Mr. N. Krishna Aiyar: Is the member aware that the report of the Debt Relief Committee suggests the exclusion of these costs and in the draft Bill appended to their report a similar provision is embodied?

Mr. Puthupally S. Krishna Pillai: I am surprised to hear my friend asking me whether I am aware that there is such a provision. I said that the Debt Relief Committee's report was considered and Government decided not to accept several of the recommendations made by them. I hope that the member is also aware of the provision regarding re-opening of accounts till 1105 and for re-adjustment of account. But Government rejected that.

Mr. V. Sankara Menon: May I know whether the member does not subscribe to the majority views of that report?

Mr. Puthupally S. Krishna Pillai: I have signed that report, but it is stated that it is only the opinion of the majority. Just as honourable members of this House are bound by the majority opinion of this House, as a member of the Committee I was bound by that report and it did not contain any statement which is untrue. Honourable members will be aware of the fact that Government did not accept several of the recommendations of the Committee. I oppose the amendment.

Mr. M. K. Ananthasiva Aiyar: May I know whether costs incurred after 2nd Dhanu 1112 will also come within the purview of this provision?

Mr. Puthupally S. Krishna Pillai: No, it will not.

The amendment was put to vote and lost.

Mr. S. Veeriah Riddiar: നമ്മുടെ രാജ്യത്ത് അനേകം വിധ വകുപ്പുകൾ അവയുടെ മെച്ചപ്പെടലിനുള്ള വിവിധ കിട്ടിയ പണം നല്ല ആളുകൾക്കു കടംകൊടുത്തു അതിന്റെ പലിശ വാങ്ങി കാലക്ഷേപം ചെയ്തും അവയുടെ കുട്ടികളെ വിദ്യാഭ്യാസം ചെയ്യിക്കുകയും ചെയ്തുവരുന്നുണ്ട്. അങ്ങനെയുള്ള വിധവകുപ്പുകളുടെ കടവും ഈ ബില്ലിന്റെ പരിധിയിൽ ഉൾപ്പെടുത്തുകയാണെങ്കിൽ അവർക്കു കാലക്ഷേപം ചെയ്യുന്നതിനോ കുട്ടികളുടെ വിദ്യാഭ്യാസം നടത്തുന്നതിനോ പെൻഷനുകൾ ഉണ്ടാക്കി പണം കൊടുത്ത് കല്യാണം കഴിപ്പിക്കുന്നതിനോ സാധിക്കാതെ അവർ വിഷമിക്കുന്നതാണ്. ഒൻപതോ ആറോ വർഷംകൊണ്ട് ചില്ലറ ചില്ലറയായി ഇവർക്കു പണം കിട്ടിയാൽ ഈ വക സംഗതികൾ ഒന്നും നടക്കുകയില്ല. അതുകൊണ്ട് വസ്തുവകകളും മറ്റും യാതൊന്നുമില്ലാതെ കരം പണം മാത്രംകൊണ്ട് കാലക്ഷേപം ചെയ്യുന്ന വിധവകുപ്പുകളുടെ പണത്തെ ഈ ബില്ലിന്റെ പരിധിയിൽനിന്നും ഒഴിവാക്കണമെന്നു വേണമെന്നുവെക്കുന്നു.

Mr. Puthupally S. Krishna Pillai : I oppose it. It is stated here "any amount which is the only means for the maintenance of a widow." Will this be a provision which would be of any avail to any widow living in this country? If a widow were to be employed as a servant in a neighbour's house, then this provision will not be applicable to her. If a widow were to get Rs. 2 by way of contribution by her son then that widow will not be entitled to the benefits of this amendment.

Mr. Puthupally S. Krishna Pillai : സർ, ഈ ഭേദഗതി കൊണ്ടു കാണുന്നത് അതായത് വിധവയുടെ ഏക ഉപജീവനമാർഗ്ഗം ഇതല്ലാതെ വേറെ ഒന്നുതന്നെ ഉണ്ടായിരിക്കാൻപാടില്ലാ: അങ്ങിനെ ഉണ്ടെങ്കിൽ മാത്രമേ ആ വിധവയ്ക്കു ഈ ബില്ലിൽ നിന്നും ഒഴിയാൻ സാധിക്കൂ എന്നാണ് പറയുന്നത്.

Mr. S. Veeriah Riddiar : പലവിധവകളും അവരുടെ ആഭരണങ്ങളും മറ്റും വിറ്റു കിട്ടിയ പണത്തിന്റെ പയിശുകൊണ്ടുമാത്രം അവർ കുട്ടികളെ സംരക്ഷിച്ചുവരുന്നുണ്ട്, അതുകൊണ്ട് അവരുടെ കാര്യത്തിൽ മാത്രം ഇങ്ങനെ ചെയ്യാൽ കൊള്ളാം.

Mr. Puthupally S. Krishna Pillai : ആ സ്ഥിതിയിലുള്ള വിധവയ്ക്കായി മാത്രം നിയമമുണ്ടാക്കാൻ സാധിക്കുകയില്ല. നിയമത്തിൽ ഒരു പ്രൊവിഷൻ ഉണ്ടാക്കണമെന്ന് വിചാരിക്കുന്നുവെങ്കിൽ അത് സാമാന്യജനങ്ങൾക്ക് ഉപകാരപ്രദമായിരിക്കണം. മെമ്പർ പറയുന്ന വിധവയ്ക്കുതന്നെ ഇതിന്റെ അനുക്രമവശം ഇല്ലാതാകാൻ സാധിക്കുന്നതാണ്. അതായത് ഈ വിധവയ്ക്കു ആരെങ്കിലും ഒരു രൂപ അല്ലെങ്കിൽ തുല്യമായ മറ്റേതെങ്കിലും സഹായം ചെയ്യാൽ മതി. നിയമത്തിന്റെ അനുക്രമം ഇല്ലാതായി തീരുന്നു. അങ്ങിനെ ഒഴിയുന്നതിനു തക്ക ഒരു പ്രൊവിഷൻ കൊണ്ടുവന്നാൽ തരക്കേടില്ല.

Mr. V. Sankara Menon : വിധവയ്ക്കു കൊടുക്കുന്ന ചെറു വാങ്ങിച്ചില്ലെങ്കിൽ എങ്ങിനെയാണു്?

Mr. Puthupally S. Krishna Pillai : അങ്ങിനെയുള്ള വിധവയ്ക്കായി പ്രത്യേക നിയമം ഉണ്ടാക്കണം. ഇതിനു അനുസരണമായ ഒരു നിയമം മദ്രാസിൽ ഉണ്ടെന്നു പറയുന്നതു സമ്മതിക്കുന്നു. അതനുസരിച്ചുള്ള ഒരു ഭേദഗതി കൊണ്ടുവന്നിരുന്നുവെങ്കിൽ അതിനെപ്പറ്റി ആലോചിക്കാമായിരുന്നു.

Mr. S. Veeriah Riddiar : എനിക്കു ഇംഗ്ലീഷ് അറിഞ്ഞുകൂടാത്തതുകൊണ്ടു ഞാൻ പറഞ്ഞതു തെറ്റിപ്പോയിരിക്കാം. ഒരു വിധവയുടെ കാര്യം മാത്രമല്ലാ ഞാൻ ഇവിടെ പറഞ്ഞത്. അനേകം വിധവക

ഉടെ കാര്യത്തെപ്പറ്റി എനിക്കറിവുണ്ട്. അക്കാര്യം പ്രത്യേകം നോക്കിയില്ലെങ്കിൽ അവരുടെ കാലക്ഷേപം വളരെമോശമായിത്തീരുന്നതായി വിചാരിച്ചാണ് ഞാൻ പറയുന്നത്. ഇതുനിമിത്തം ബ്രിട്ടീഷ് ഇൻഡ്യയിലുള്ള അനേകം വിധവകൾ കെട്ടിത്തൂങ്ങി മരിച്ചിട്ടുണ്ട്. കടം കൊടുത്ത പണത്തിന്റെ പലിശവാങ്ങി കാലക്ഷേപം കഴിച്ചവരവെ ബാങ്ക് പൊളിഞ്ഞുപോകുകയും കാലക്ഷേപത്തിനു വേറെ മാർഗ്ഗമില്ലാത്തതുകയും ചെയ്താൽ മരുന്ന തിന്നും കെട്ടിത്തൂങ്ങിയും അനേകം വിധവകൾ മരിച്ചിട്ടുണ്ട്. അനേകം വിധവകൾ കടം കൊടുത്ത പണം കൊണ്ടുമാത്രം കാലക്ഷേപം ചെയ്തു വരുന്നുണ്ട്. അതുകൊണ്ടുമാത്രമാണ് ബഹുമാനപ്പെട്ട ഗവണ്മെന്റിനോടു അവരുടെ സങ്കടത്തെപ്പറ്റി പറയുന്നത്. അതിനാൽ എല്ലാവരും ഇത് അനുവദിച്ചതരണമെന്നുപേക്ഷിക്കുന്നു.

Mr. C. N. Thuppan Nambootiripad : മി. സ്പീക്കർ, അവരുടെ അമൻറമെന്റിൽ സ്ട്രീകറ്റുടെ രക്ഷയെപ്പറ്റി പറയുന്നതുകൊണ്ട് തെറ്റാണോ?

Mr. Puthupally S. Krishna Pillai : ഒരു തെറ്റുമില്ല. അസംബ്ലിയിൽ പാസ്സാക്കിയിരിക്കുന്ന ഈ ബില്ലിൽ ഒരു ഭേദഗതി വരുത്തണമെങ്കിൽ അതിന് ഒരു നിയമത്തിന്റെ ഉള്ളിൽനിന്നു പറഞ്ഞാലേ സാധിക്കുകയുള്ളൂ. അഭിപ്രായത്തെ മനസ്സിൽ വച്ചുകൊണ്ട് അതിനെ വാക്കുരൂപേണ പ്രകടിപ്പിക്കാൻ നിവൃത്തിയില്ലെങ്കിൽ ഈ അമൻറമെന്റിനെ എതിർക്കാതിരിക്കാൻ നിവൃത്തിയില്ല. മെമ്പർ ഫാജരാക്കിയിരിക്കുന്ന ഈ വാചകം ഈ ബില്ലിൽ ഉൾപ്പെടുത്തിയാൽ ബില്ലിലെ മറ്റു ഭാഗങ്ങളെ സംബന്ധിച്ചിടത്തോളം അത് യോജിക്കാതെ വരുന്നതാണ്. മെമ്പർ പറയുന്നത് കഴുപ്പെടുത്ത വിധവകൾക്കുവേണ്ടി ഒരു പ്രൊവിഷൻ വേണമെന്നാണ്. അങ്ങനെയുള്ള ഒരു ഭാരമേൽപ്പ് ലീഗൽ റിമൊബ്രൻസർ എന്ന നിലയിൽ എനിക്കു വഹിക്കുവാൻ നിവൃത്തിയില്ല. കൊണ്ടുവന്നിരിക്കുന്ന ഭേദഗതിയിൽ തെറ്റാണോ എന്നു നോക്കണം. അതു വ്യാകരണം സംബന്ധിച്ചായാലും ശരി, അത് പ്രയോഗത്തിൽ വരുമ്പോഴുള്ള വിഷമംകൊണ്ടായാലും ശരി അത് നോക്കിയാൽ ഇതിനെ എതിർക്കാതെ നിവൃത്തിയില്ല. ശരിയായി ഉൾപ്പെടുത്തേണ്ടവണ്ണമുള്ള വാക്കുകൾ അടങ്ങിയ ഭേദഗതി കൊണ്ടുവന്നാൽ ആ കാരണം പറഞ്ഞു എതിർക്കുകയില്ല. അങ്ങനെയല്ലാത്ത ഈ ഭേദഗതിയെ എനിക്കു സ്വീകരിക്കുവാൻ നിവൃത്തിയില്ല. മെമ്പറിന്റെ ആശയം സൂത്ര്യർഹമായാലും സാധുക്കളുടെ രക്ഷയെ ഉദ്ദേശിച്ചു കൊണ്ടു വന്നതായാലും ഈ ബില്ലിൽ ഇതിനെ കൊണ്ടു ചേർക്കുന്നതു വിഷമമാണ്.

Mr. Kochikal P. Balakrishnan Tampi: Am I to understand that if the Legal Remembrancer accepts the principle contained in this amendment the wording of the amendment can be changed and the amendment moved with the permission of the Chair?

Mr. Puthupally S. Krishna Pillai: It is an hypothetical question and cannot be answered now. We are not concerned with amendments that might be brought forward hereafter. We are concerned only with those amendments that are now placed before the House.

The question that in Clause 4, the following be added as another sub-clause (h) *viz.*,

"(h) any amount which is the only means for the maintenance of a widow." was put and lost.

The question whether Clause 4 stands part of the Bill was then put to the House.

Mr. Kochikal P. Balakrishnan Tampi: Sir, I oppose the motion. I oppose it just to bring to the attention of the Government that it is not proper that the Government are not willing to extend to the debtors the same concessions that this House expects from other creditors. I can understand why revenues and other taxes due to Government are excluded from the purview of the Bill. But other liabilities arising out of transactions with Government should be brought within the scope of this Bill and Government treated like any other debtor. Suppose a person borrows Rs. 5,000 from the Government and he is not able to pay it in full. Then it is not proper for the Government to seek that advantage which is not extended to other creditors. Also, Sir, I take objection to the inclusion of Sree Padom in the exclusion clause, *i. e.*, Clause 4 of the Bill. Sree Padom belongs to His Highness the Maharaja and this House is not competent to legislate on anything touching His Highness the Maharaja or the Royal Family.

Mr. Puthupally S. Krishana Pillai: Sir, under a ruling governing this House, no member who opposes a question put to the House has any right to make a speech.

Mr. Kochikal P. Balakrishnan Tampi: Sir, on a point of order. Can a Legal Remembrancer quote rulings that were given by the Deputy President of the Assembly?

Mr. Puthupally S. Krishna Pillai: I have not myself stated my point of order, Sir.

Mr. Kochikkal P. Balakrishnan Tampi: Sir, the Legal Remembrancer is not in order to refer this House to any ruling made by the Deputy President.

President : Whether it is the President, or the Deputy President, or any other honourable member selected from the Panel of Chairman, so long as any one of them occupies the Chair he is supposed to have the same right to give rulings as the President. So long as a member has the right to occupy the Chair, it is the Chair that gives the rulings and not the member. These proceedings and the rulings from the Chair are made in relation to the Assembly and the Council. Ruling in one chamber are not strictly binding on the other as ruling in the same chamber are. This House is naturally jealous of its own rights. And the Chair here may in theory give a ruling not in consonance with the rulings made elsewhere which are only to be used for guidance. We refer to the rulings made in the other House just as we look into May's Parliamentary Practice or just as we look for Sindh and Oudh cases reported in unofficial Law Reports.

Mr. Puthupally S. Krishna Pillai : When the Deputy President said 'that clause II do form part of the Bill' a member stood up to speak on it.

President : It is rather an unhelpful suggestion. It is better that the Legal Remembrancer gives the specific reference. I should like to have the latter part of the ruling saying that the member has no right to make a speech. What is the page?

Mr. Puthupally S. Krishna Pillai : Page 71, Sir.

President : Yes. When Mr. Sambasiva Aiyar, the other day, wanted to speak, it was considered even by the official member in charge of the Bill, that Mr. Sambasiva Aiyar might be given an opportunity as a special case; and therefore it was that he was allowed to speak on a former occasion. Really he has no right to make a speech at this stage. I think I should give a ruling on the subject but I shall reserve my ruling. What more have you to say, Mr. Tampi?

Mr. Kochikal P. Balakrishnan Tampi : With these words I oppose Section 4, Sir,

President : Legal Remembrancer?

Mr. Puthupally S. Krishna Pillai : I have nothing more to say, Sir.

Mr. Kochikal P. Balakrishnan Tampi : Sir, the Legal Remembrancer must answer the point suggested by me, *i. e.*, whether this House can legislate on matters touching the Royal House.

President : What is the Section?

Mr. Puthupally S. Krishna Pillai : Section 17, Sir. No Sir, that point does not arise because it is not a measure affecting the Royal Household. The provision itself says that "nothing in this shall be construed as affecting....."

President : This is a matter for careful consideration. Under the English Crown Practice an Act, unless the Crown is specifically named in it and stated to have bound itself by it shall not apply to the Crown. I should like to know the Legal Remembrancer's opinion whether Section 17 of the Act is not an attempt to enact that principle, so that in other words, unless the Act itself is framed with the consent of the Crown in that behalf the Crown's interest are unaffected. No legislature can frame an Act derogatory of or in addition to or confirmation of the prerogatives or rights of His Highness or the Ruling family. I wish to know the Legal Remembrancer's opinion in incorporating into our statutory law that principle of Crown Practice. That is the idea in England. I wish to know whether the Legal Remembrancer is of the opinion that this Section 17 (a) is an attempt to import that principle of the English Crown practice.

Mr. Puthupally S. Krishna Pillai : Yes, Sir, more over, in this particular case it was thought that it might be contended by some people that this Act will apply to debts and liabilities due to Sreepadom. It was thought expedient to make specific mention of the fact by way of caution.

President : Order, order. In my opinion this provision is evidently inserted *ex abundante cantela*, as a matter of special safeguard and it may have to be considered later whether this is not a surplusage. At the present moment, I am inclined to hold—I do not want to give a final ruling—that such a provision, saving and excepting the property or claims of His Highness or any member of the Royal Family or those under a Domestic Statute, is superfluous and strictly illegal. That is my present opinion, but I will give my final ruling later on. But this is a matter involving very important constitutional issue and I am much obliged to the honourable member for bringing this matter to the Chair's notice.

The question that clause 4 do stand part of the Bill was put to vote and declared carried.

Clause 4 was added to the Bill.

Clause 5.

President : It does not look as if members are enthusiastic in continuing the discussion. I should like to know the pleasure of the House, whether they are for continuing the discussion further with a view to finish the consideration of the Bill, or for sitting every day for some time after the regular business of the House is over?

Mr. Kochikal P. Balakrishnan Tampi : Sir, in view of the large number of amendments, I think it is the sense of the House to appeal to the mover to sit today itself...

President : I have no objection; I should like to know what will conduce to the convenience of the House. It is now 6.20.

Mr. Kottur Kunjukrishna Pillai : I think we will sit up to 8-30 and see whether it can be finished.

President : Now, there are certain obvious difficulties with regard to 8-30.

Mr. M. K. Nilakanta Aiyar : 7-45 will be more convenient.

President : Yes, very well. We will sit till 7-45.

Mr. N. Krishna Aiyar : Sir, I beg to move that in clause 5, sub-clause (1) delete the words—

(1) "Except in the cases mentioned hereunder" and delete also the exception (a) and (b) and sub-clause (2).

President : Order, order. After 7-45 today, if by any chance it is not finished, we will sit again at 5-30 P. M. on Monday.

Mr. N. Krishna Aiyar : Sir, Clause 5 is intended to exempt the usufructuary mortgage from the operation of this Act.

Mr. M. K. Ananthasiva Aiyar : I have also sent in amendments.

President : I am told that you sent in your amendments yesterday.

Mr. M. K. Ananthasiva Aiyar : Yes.

President : Yes. I do not want to be too meticulous in the application of the rules, but let me at once state the position of the House on this matter. The Chair takes the view that this is obviously a Bill in which a fairly large majority of the members of this House take up a particular line and a minority take another line. I do not desire that the minority should think that they had not their full say in this matter. Therefore, the Chair, though it is entitled to say that the amendments have been sent in late, and will not be allowed to be considered, is willing to be guided by the sense of the House because it is, after all, for the House to consider whether the majority would have the discussion go on on the amendments before the House already or also on further amendments which Mr. Ananthasiva Aiyar had sent yesterday.

Those in favour of the latter procedure will kindly signify their assent in the usual manner.

A few honourable members signified their acquiescence.

Rather sepulchral ! (*Laughter*). Then, we shall get along.

Mr. N. Krishna Aiyar : Clause 5 is intended to exempt usufructuary mortgages from the operation of the applicability of this Act. Usufructuary mortgage has been defined in clause (2) sub-clause (9). Having made that definition, it is unnecessary to make further exemptions because in making such exemptions, the object of exempting usufructuary mortgage is frustrated. My

[Mr. N. Krishna Aiyar]

reason is that a wide latitude is given for the interpretation of documents which on the very face of it are usufructuary mortgage ; but by some implication, or in contravention of rules of law, practice, and possibly, in contravention of intention also, it gives latitude to hold a usufructuary mortgage as not one. In such circumstances, it will be giving a wide margin of discretion to the Civil Courts. The Legal Remembrancer has time and often pointed out that the object and the fundamental basis on which the several clauses of this Bill are framed is the avoidance of further discussions and disputes in the Civil Courts ; but having defined usufructuary mortgages as in the Transfer of Property Act, as has been well understood in the legal language and by all persons who have had anything to do with mortgages, it is unnecessary to hoist upon the simple word 'usufructuary mortgages' several exceptions to divest it of its natural meaning. It is further unnecessary that these exceptions should be attached to clause 5 which ultimately defeats the very purpose of the law embodied in the clause which excludes usufructuary mortgages altogether. I therefore submit that this amendment may be accepted.

Mr. Kochikal P. Balakrishnan Tampi : Sir, I oppose it.

President : It is not seconded.

Mr. M. K. Ananthasiva Aiyar : Sir, I second the motion.

Mr. Kochikal P. Balakrishnan Tampi : Sir, I oppose the amendment more to save the lungs of the Legal Remembrancer. Sir, this clause refers to hypothecation practically. On paper it is all mortgage, but it is little more than hypothecation. Therefore, it is these exclusions alone that are to prove operative for the benefit of the debtors. For these reasons I oppose the amendment.

Mr. Puthupally S. Krishna Pillai : Sir, even in the existing Agricultural Debt Relief Act, transactions which purport to be usufructuary mortgages, but which are really lease back transactions are treated as hypothecations. We are only giving effect to that provision.

The section strictly speaking excludes all real, genuine, usufructuary mortgages. The first transactions dealt with under this clause is not really a usufructuary mortgage. The second deals with a special contingency that is peculiar to Travancore. Here a usufructuary mortgagee who is in possession is entitled to bring a suit for the recovery of the mortgage debt and during these days of depression this appears to be the practice. He is entitled to sue for the mortgage amount and sell away the entire mortgage property. In such cases, it is provided that this Bill will apply.

President : Has the courts here made any rule like that obtaining outside?

Mr. Puthupalli S. Krishna Pillai : The general rule is that such a suit can be brought for the sale of the equity of redemption. That is peculiar to Travancore.

President : So, the corresponding British Indian rule is not applicable?

Mr. Puthupalli S. Krishna Pillai : No. It is complained that the mortgagee for the purpose of depriving the mortgagor of the equity of redemption sues for the mortgage amount. This provision will be applicable in the case of pending decrees and suits that may be instituted within six months of that Act. In other cases it is not intended to apply.

Any way, the hardship pointed out is not as real as my friend apprehend.

Mr. M. K. Ananthasiva Aiyar : Can we institute a suit for foreclosure in Travancore?

Mr. Puthupalli S. Krishna Pillai : No, except for the mortgage amount.

The question that in clause 5, sub-clause (1) delete the words "Except in the cases mentioned hereunder" and delete also the exceptions (a) and (b) and sub-clause (2)".

was put to vote and declared lost.

The question that clause 5 do form part of the Bill was put to vote and declared carried.

Clause 5 was added to the Bill.

Clause 6.

Mr. Jacob Cherian : Sir, I beg to move that :

"In clause 6, sub-clause (1), line 2, put a full stop after the word "bank" and delete the rest of the sub-clause.

Sir, there is a sying that there is an 'if' in the midst of 'Life'. Here we have an "if" in the midst of sub-clause (1). This "if" with the rest of the provision is capable of paralysing the activity of many, if not all, banks in the State. Today the prevailing rates of interest everywhere are very much lower than the rates of a few years ago. Call money at Bombay is about one per cent. Bank rate is 3 per cent. Government Bonds 3 to 3½ per cent. But we have little concern with the present rates as we are dealing, by this bill, with debts prior to 1112, i. e. prior to 1936-37. Call money at Bombay in 1931-32 was 6 per cent. The Bank rate in India during that period was 8 per cent ; and in New York it was 6 per cent ; and in London 7 to 8 per cent. Government of India floated their sterling loan in London at 6 per cent. 1935 Treasury bonds.

Vol. XVI. No. 4.

[Mr. Jacob Cherian.]

were offered $6\frac{1}{2}$ per cent. Corporations of big cities like Bombay and Calcutta were issuing debentures at 7 per cent. Sir, under those conditions was it possible for banks in Travancore to keep their loan rates at 9 per cent or below leaving a working margin above their deposit rates during those periods? Banks in Travancore cannot remain isolated from the rest of the world and maintain their own rate. They have to keep up in terms of the prevailing rates in British India; and British India in her turn, has to move in sympathy with the rates in England.

I claim, by my amendment, complete exemption for banks. In other words I would claim exemption for those transactions for which interest is charged not more than 12 per cent, as banks, as anyone else, are not entitled to interest over 12 per cent. So the difference between the present provision and the rate proposed in my amendment would be 3 per cent in interest rate and nothing more.

Next we have to consider how far this will affect the relief measures. It is admitted that our banks do not make agricultural loans to any appreciable extent. In Chapter V Page 58 of the Travancore Banking Enquiry Report we read the following:

"Joint Stock Banks as has been stated in Chapter IV do not play any considerable part in financing agriculture directly."

It is therefore evident that banks will not be materially affected by relief measures if they are confined to agricultural debts. We have, however, before us a different proposition. The present bill is intended to cover all classes of debts. Any way the total investments of all banks in the State put together would not be more than 1 crore, i.e., a little over 1 per cent of the total indebtedness. The ratio is too negligible to affect relief measures to any appreciable extent. On the other hand the proposed provision to include transactions of banks on which interest at the rate of more than 9 per cent is charged is positively detrimental to the interests of banks in the State.

Sir, the experience of countries that have stood in the vanguard of progress has taught us that it would be impossible to build up trade and industry without the support of adequate credit which banks alone can manage in a systematic and organised manner. Sir M. Visweswaraya told Mysoreans, "Industrialise or Perish". Since taking up the reins of administration of this State, you, Sir, have given us the same message. For industrial progress sound credit facilities are one of the fundamental conditions precedent.

As an Educationist would speak of his three "Rs." we businessmen have to depend on our three "C"s, i. e. Capital, Character and Capacity. These three "C"s would go to form the big "C" called Credit. Sir, can we say we have character when we deny our obligations, when we refuse to fulfil our contracts? Admittedly we have little capital in our country. Where capital and character are absent capacity alone would count for nothing.

Last winter, when I was in North India, I was told that Sir Jwala Prasad Srivastava was contemplating the transfer of some of his industrial undertakings in the U. P. to a neighbouring Indian State. His reasons are reported to be chiefly the ever-growing labour troubles and the mischievous relief Regulations. I am afraid we have more labour organisations than industrial concerns in the country. The Financial Secretary in this budget speech (Page 1) observed that over three hundred thousand people are affected and 25,000 are without employment at Alleppey on account of the closure of some coir factories there. Have these labourers or their leaders ever thought of the calamity that may ensue if those factories discontinued production? They, on the other hand were constantly harassing their employers in normal times by ever-increasing demands and threats and strikes. Now the cry is for food—for a meal a day. The paper which I received this morning from Delhi—the Hindustan Times of August 5 contains an article by Mr. K. M. Augustine, under the caption "The Travancore Coconut Industry" I ask permission to read a few lines from it.

"The west coast, chiefly Travancore which accounts for the major portion of India's coconut products, is on the verge of industrial bankruptcy. A huge labour population, three hundred thousand strong, hitherto depending on coir manufacture for food and clothing, are today thrown out of employment into hopeless penury. All the same, it is heartening to note that the public and the Government are taking a keen and sympathetic interest in the problem and that the question of remedial measures is in the forefront."

Sir, it is my submission that sound banks are an invaluable asset to the country and banks can help a good deal in the industrial progress and economic development of the country. No trade, no industry, can thrive without proper banking facilities, for, a sound system of credit facilities, is the life-blood of the civilised man and the prime requisite of modern society. It therefore becomes the responsibility of any civilised Government to foster the organised credit of the country. Interference with normal lending and borrowing operations under a system of credit may bring disastrous, often astonishing, reactions. Banks serve the rich and poor alike, more often the poor and sometimes widows such as were described by Mr. Veeraiah Reddiar, and orphans too.

Mr. A. Easwara Pillai: May I know from the member whether banks serve the agriculturists.

Mr. Jacob Cherian: Banks play little direct part in the supply of capital for agricultural purposes. But Joint Stock Banks play a very important part in the general prosperity of a country. Mr. Ramachandra Rao, the Land Revenue Commissioner, experienced in the different departments of service of the State and who has also been Financial Secretary, observed thus: (Debt Relief Enquiry Committee Report, Page 100)

"There are only very few banks left in Travancore and even their functioning will be crippled if they are brought under act....."

This is a time when banks should be given every encouragement. At least they should not be interfered with in a period like this. I appeal to the honourable members to consider this matter dispassionately before deciding on their course in respect of this amendment.

Mr. N. Krishna Aiyar: I second it.

Mr. Puthupally S. Krishna Pillai: Sir, I oppose the amendment. The learned member wants that all banks as defined in Clause (2) should be exempted from the operation of this clause. It was contended by the honourable member that banks here could not advance money on any low rate of interest because our banks have to borrow money and therefore have to lend out money at a higher rate of interest. It was pointed out that if this provision is incorporated several more would be thrown out of employment and that the industrial prosperity of the State would be affected.

Mr. Kochikal P. Balakrishnan Tampi: May I know from the member whether he is aware that there is a run on the banks?

Mr. Puthupally S. Krishna Pillai: That is one of the reasons why it is provided that banks which have levied 9 per cent per annum or less should not be affected so far as such transactions are concerned. It was stated that 12 per cent is the normal rate of interest for banks, but it will be found that these banks are entitled to charge interest quarterly.

Mr. N. Krishna Aiyar: I do not say that 12 per cent is the normal rate of interest. It is the maximum rate of interest allowed in law.

President: What the honourable member said was that this was the rate permissible under law.

Mr. Puthupally S. Krishna Pillai : Certainly we do not come forward with any legislation to prohibit anything which is permitted at present. There is no need for penalising it. Unless we are satisfied that the Public Banks or companies are functioning just as a bank ought to do, the Legislature sees no ground to exempt them. If a Bank is advancing money at usurious rates of interest and realising interest quarterly or adding it on to the principal.

Mr. M. K. Ananthasiva Aiyar : May I know from the member whether the Imperial Bank is charging quarterly rates ?

Mr. Puthupally S. Krishna Pillai : They may be doing so, but the interest there is only 6 to 6½ per cent.

Mr. Jacob Cherian : May I point out that the Imperial Bank rate is 8 per cent.

Mr. Puthupally S. Krishna Pillai : If it is 8 per cent. those Banks who had advanced loans on the same rate of interest will not be affected. But it is possible that a bank may borrow money at 8 per cent and advance it to others at 12 per cent interest and claim that they are serving the country.

Mr. Jacob Cherian : May I know from the member how these banks are quoting commercial bond rates of the Government of India

Mr. Puthupally S. Krishna Pillai : I am not familiar with such technicalities, Sir. If any transaction is entered into, the interest of which is more than 9 per cent per annum, that transaction will be affected.

Mr. M. K. Ananthasiva Aiyar : May I know that if a Bank is claiming only 9 per cent, it will be exempted ?

President : That comes under the other amendment.

Mr. Puthupally S. Krishna Pillai : It is the word charged.

President : The honourable member need not anticipate the amendment.

Mr. Puthupally S. Krishna Pillai : It is therefore stated that such transactions will not be affected. Anyhow it must be remembered that only transactions entered into before 22nd Dhanu, that will be affected by the provisions of this Bill, and if here is any substantial debt, incurred before 22nd Dhanu 1112,

[Mr. Puthupalli S. Krishna Pillai.]

which is still outstanding, it must be deemed to be debt which the bank itself will not be in a position to realise. It is only such debts that are proposed to be dealt with by the Bill. I believe, Sir, no difficulty will be experienced by the banks which were conducting their business properly.

Mr. Kochikal P. Balakrishnan Tampi: May I know from the member whether the 9 per cent interest provided is payable quarterly or yearly?

Mr. Puthupally S. Krishna Pillai: I believe we have stated that only 'if 9 percent per annum interest is charged'.

Mr. Kochickal P. Balakrishnan Tampi: I want to know whether it is payable quarterly or otherwise?

Mr. Putupally S. Krishna Pillai: We have not stipulated that.

President: I take it that a bank does not usually provide for a quarterly rate of interest, but the banking practice is to claim the interest at the end of a quarter and if not paid, they add it on to the amount.

Mr. Kochikal P. Balakrishnan Tampi: Is it part of their contract to do so?

President: It is only in certain transactions, like in the case of Marwadis, a quarterly interest arises as part of the contract. The banks do not usually provide anything. They have the right to call any debt at any time. They call in a debt at the end of each quarter and unless the interest is paid they renew the loan.

Mr. Kochikal P. Balakrishnan Tampi: The result would be something more than 9 per cent in the case of Banks. May I point out the difference between the Marwadis and these banks...

President: The only difference is that the Marwadi takes about fifty or sixty per cent of the amount in advance, gives only 40 per cent and on that charge interest and claims the interest quarterly.

Mr. Kochikal P. Balakrishnan Tampi: May I point out that our Banks are also in that class.

President: That I do not know. I have only experience with Marwadi men.

The amendment of Mr. Jacob Cherian that in

"Clause 6, sub-clause (1) line 2, put a full stop after the word 'bank' and delete the rest of the sub-clauses",

was put to vote and declared lost.

Mr. James Fletcher : Sir, I move that the House may adjourn till Monday.

The motion was put to vote and carried.

The Council adjourned at 6-48 P. M.

A. GUNAMONY,
Secretary to the Sri Chitra State Council.
